

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

vs. : 19 Cr. 373 (PGG)

MICHAEL AVENATTI, :

Defendant. :

**DECLARATION OF SCOTT A. SREBNICK, ESQ., IN
SUPPORT OF DEFENDANT MICHAEL AVENATTI'S
MOTION TO DISMISS INDICTMENT FOR VINDICTIVE
AND SELECTIVE PROSECUTION, AND FOR DISCOVERY**

I, Scott A. Srebnick, Esq., pursuant to 28 U.S.C. §1746, declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

1. I am a member of the law firm of Scott A. Srebnick, P.A., co-counsel for Defendant Michael Avenatti in this case.

2. I submit this Declaration in support of Mr. Avenatti's Motion to Dismiss Indictment for Vindictive and Selective Prosecution, and for Discovery.

3. The exhibits attached to this Declaration are true and correct copies of the documents they purport to be, subject, of course, to redactions. They were provided to government counsel for their review pursuant to the Protective Order. The redactions have been agreed to with the government.

4. Attached as Exhibit A is a Press Release issued by the United States Attorney's Office for the Southern District of New York on or about March 25, 2019.

5. Attached as Exhibit B is a Travel Team Contract for California Supreme for 2010-13, produced by the government in discovery.

6. Attached as Exhibit C is a Travel Team Contract for California Supreme for 2016-17, produced by the government in discovery.

7. Attached as Exhibit D is a Memorandum from Jeffrey Auerbach to Michael Avenatti, dated March 18, 2019, with attachments, produced by the government in discovery.

8. Attached as Exhibit E are various Nike text messages from 2016-17, produced by the government in discovery.

9. Attached as Exhibit F is an exchange of text messages between Jeffrey Auerbach and Gary Franklin in March 2018, produced by the government in discovery.

10. Attached as Exhibit G is an exchange of text messages between Jeffrey Auerbach and Gary Franklin in October 2018, produced by the government in discovery.

11. Attached as Exhibit H is an e-mail exchange among Gary Franklin, Trent Copeland, and Jeffrey Auerbach in January 2019, produced by the government in discovery.

12. Attached as Exhibit I are text messages from Jeffrey Auerbach to Gary Franklin, produced by the government in discovery.

13. Attached as Exhibit J is a Memorandum from Jeffrey Auerbach to Michael Avenatti, dated March 18, 2019, produced by the government in discovery.

14. Attached as Exhibit K is an exchange of text messages between Jeffrey Auerbach and Gary Franklin in February 2019, produced by the government in discovery.

15. Attached as Exhibit L is an e-mail from Jeffrey Auerbach to Michael Avenatti, dated March 1, 2019, produced by the government in discovery.

16. Attached as Exhibit M is an e-mail from Jeffrey Auerbach to Michael Avenatti, dated March 18, 2019, attaching a Complaint filed against Adidas, produced by the government in discovery.

17. Attached as Exhibit N is a PowerPoint presentation prepared for Michael Avenatti, dated March 2019, produced by the government in discovery.

18. Attached as Exhibit O are typewritten notes purportedly prepared by Nike attorney Ben Homes from a meeting on March 19, 2019, produced by the government in discovery.

19. Attached as Exhibit P are various Nike e-mails from 2016-17, produced by the government in discovery.

20. Attached as Exhibit Q is an unsigned draft of a General Release and Settlement Agreement, dated March 25, 2019, produced by the government in discovery.

21. Attached as Exhibit R is a Search Warrant Affidavit (without attachments), filed in the case of *United States v. Cohen*, No. 18-cr-00602-WHP (S.D.N.Y.).

22. Attached as Exhibit S are e-mails from June 2018 between Avenatti and members of the USAO-SDNY, produced by the government in discovery.

23. Attached as Exhibit T is an article in the New York Times, entitled “The Mounting Costs of Internal Investigations,” which was referenced in a text message produced by the government in discovery.

Dated: August 16, 2019

/s/Scott A. Srebnick
Scott A. Srebnick

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2019, I caused a true and correct copy of the foregoing to be served by electronic means, via the Court's CM/ECF system, on all counsel registered to receive electronic notices.

/s/Scott A. Srebnick
Scott A. Srebnick